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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3000 OF 2007

Harish Narayan Kotian .. Applicant

V/s

The State of Maharashtra .. Respondent

Mr.Anil D. Joshi for the applicant.

Mrs.M.M. Deshmukh, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 21ST NOVEMBER 2007

P.C. :

1. Heard learned counsel for the applicant and the learned A.P.P. for the State.

2. Charge-sheet has been filed against the applicant and others in the Court of Sessions Judge, Alibag for an offence punishable under sections 399 and 402 of I.P.C., section 25 of the Arms Act and section 37(1) read with section 135 of the Bombay Police Act.

3. The case of the prosecution in brief is as follows:-

. On 16th April 2007 at about 10.20 p.m. near Kalamboli Market, 5 persons came on two motorcycles from Mumbra side. They had come together for the purpose of committing dacoity in a jewellery shop. On the basis of a prior information, the police had led a trap. Police tried to accost the applicant and the other co-accused. They tried to flee away. Three suspects were captured by the police while two fled away. During their personal search, they were found in possession of three choppers and they had assembled there with an intent to commit robbery in the jewellery shop. On this accusation, Head Constable Jadhav lodged a report and the offence was registered against the applicant and others.

4. Learned counsel for the applicant submitted that since the date of the arrest, the applicant is in jail nearly for more than 6 months and, therefore, the applicant be released on bail.

5. Learned A.P.P. strongly opposed the application. She submitted that two persons are still absconding. The present applicant is also not resident of the State. He has not explained for what purpose he along with others had come to the spot with choppers. If the applicant is released on bail, he is likely to

commit such type of offence and there is chance of tampering with the prosecution evidence. As the charge-sheet has already been filed, the trial is likely to be held soon. In the circumstances, it would not be appropriate to release the applicant on bail, who is charged with a serious offence.

6. I have considered the submissions made by the learned counsel for the applicant as well as the learned A.P.P. Considering the nature and the gravity of the offence and also considering the fact that two persons are still absconding and the applicant was possessed with dangerous weapon, it would not be appropriate to grant bail at this stage. I see no reason to take a view different than the view taken by the learned Sessions Judge rejecting the bail. In the circumstances, application for bail is rejected.

(D.G. KARNIK, J.)